

# SENATE BILL NO. 823

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR WHITE.

4084S.01I

ADRIANE D. CROUSE, Secretary

## AN ACT

To repeal sections 210.135, 210.140, 210.147, 210.762, and 211.081, RSMo, and to enact in lieu thereof six new sections relating to child protection.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Sections 210.135, 210.140, 210.147, 210.762,  
2 and 211.081, RSMo, are repealed and six new sections enacted in  
3 lieu thereof, to be known as sections 210.135, 210.140, 210.147,  
4 210.715, 210.762, and 211.081, to read as follows:

210.135. 1. Any person, official, **employee of the**  
2 **department of social services**, or institution complying with  
3 the provisions of sections [210.110] **210.109** to 210.165 in  
4 the making of a report, the taking of color photographs, or  
5 the making of radiologic examinations pursuant to sections  
6 [210.110] **210.109** to 210.165, or both such taking of color  
7 photographs and making of radiologic examinations, or the  
8 removal or retaining a child pursuant to sections [210.110]  
9 **210.109** to 210.165 **and chapter 211**, or in cooperating with  
10 the division, **or cooperating with a qualified individual**  
11 **pursuant to section 210.715**, or any other law enforcement  
12 agency, juvenile office, court, **state agency**, or child-  
13 protective service agency of this or any other state, in any  
14 of the activities pursuant to sections [210.110] **210.109** to  
15 210.165 **and chapter 211**, or any other allegation of child  
16 abuse, neglect or assault, pursuant to sections 568.045 to  
17 568.060, shall have immunity from any liability, civil or

**EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

18 criminal, that otherwise might result by reason of such  
19 actions. Provided, however, any person, official or  
20 institution intentionally filing a false report, acting in  
21 bad faith, or with ill intent, shall not have immunity from  
22 any liability, civil or criminal. Any such person,  
23 official, or institution shall have the same immunity with  
24 respect to participation in any judicial proceeding  
25 resulting from the report.

26       2. An employee, including a contracted employee, of a  
27 state-funded child assessment center, as provided for in  
28 subsection 2 of section 210.001, shall be immune from any  
29 civil liability that arises from the employee's  
30 participation in the investigation process and services by  
31 the child assessment center, unless such person acted in bad  
32 faith. This subsection shall not displace or limit any  
33 other immunity provided by law.

34       3. Any person, who is not a school district employee,  
35 who makes a report to any employee of the school district of  
36 child abuse by a school employee shall have immunity from  
37 any liability, civil or criminal, that otherwise might  
38 result because of such report. Provided, however, that any  
39 such person who makes a false report, knowing that the  
40 report is false, or who acts in bad faith or with ill intent  
41 in making such report shall not have immunity from any  
42 liability, civil or criminal. Any such person shall have  
43 the same immunity with respect to participation in any  
44 judicial proceeding resulting from the report.

45       4. In a case involving the death or serious injury of  
46 a child after a report has been made under sections 210.109  
47 to 210.165, the division shall conduct a preliminary  
48 evaluation in order to determine whether a review of the  
49 ability of the circuit manager or case worker or workers to

50 perform their duties competently is necessary. The  
51 preliminary evaluation shall examine:

52 (1) The hotline worker or workers who took any reports  
53 related to such case;

54 (2) The division case worker or workers assigned to  
55 the investigation of such report; and

56 (3) The circuit manager assigned to the county where  
57 the report was investigated.

58 Any preliminary evaluation shall be completed no later than  
59 three days after the child's death. If the division  
60 determines a review and assessment is necessary, it shall be  
61 completed no later than three days after the child's death.

210.140. Any legally recognized privileged  
2 communication, except that between attorney and client or  
3 involving communications made to a minister or clergyperson,  
4 shall not apply to situations involving known or suspected  
5 child abuse or neglect and shall not constitute grounds for  
6 failure to report as required or permitted by sections  
7 **[210.110] 210.109** to 210.165, to cooperate with the division  
8 in any of its activities pursuant to **[sections 210.110 to**  
9 **210.165] this chapter, chapter 211, and chapter 453,** or to  
10 give or accept evidence in any judicial proceeding relating  
11 to child abuse or neglect.

210.147. **[1. Except as otherwise provided by law,]**  
2 All information provided at any family support team meeting  
3 **[held in relation to the removal of a child from the child's**  
4 **home]** is confidential; except that:

5 (1) Any parent or party may waive confidentiality for  
6 himself or herself to the extent permitted by law; and

7 (2) Any parent of the child shall have an absolute  
8 right to video and/or audio tape such team meetings to the  
9 extent permitted by law; and

10 (3) No parent or party shall be required to sign a  
11 confidentiality agreement before testifying or providing  
12 information at such team meetings. Any person, other than a  
13 parent or party, who does not agree to maintain  
14 confidentiality of the information provided at such team  
15 meetings may be excluded from all or any portion of such  
16 team meetings during which such person is not testifying or  
17 providing information.

18 [2. The division shall be responsible for developing a  
19 form to be signed at the conclusion of any team meeting held  
20 in relation to a child removed from the home and placed in  
21 the custody of the state that reflects the core commitments  
22 made by the children's division or the convenor of the team  
23 meeting and the parents of the child or any other party.  
24 The content of the form shall be consistent with service  
25 agreements or case plans required by statute, but not the  
26 specific address of the child; whether the child shall  
27 remain in current placement or be moved to a new placement;  
28 visitation schedule for the child's family; and any  
29 additional core commitments. Any dissenting views shall be  
30 recorded and attested to on such form. The parents and any  
31 other party shall be provided with a copy of the signed  
32 document.]

210.715. 1. The department of social services shall  
2 establish programs to implement provisions related to the  
3 federal Family First Prevention Services Act, P.L. 115-123,  
4 as amended, to provide enhanced support to children and  
5 their families to prevent foster care placements when doing  
6 so serves the safety and well-being of children, as well as

7 to promote family-based care, ensuring the limited use of  
8 residential setting placements when found to be the least  
9 restrictive, appropriate placement, as approved by the  
10 juvenile or family court.

11 2. As used in this section, the following terms shall  
12 mean:

13 (1) "Child", "children", and "youth" any person under  
14 eighteen years of age or any person between eighteen and  
15 twenty-one years of age in the legal custody of the  
16 children's division and over whom the court has maintained  
17 jurisdiction;

18 (2) "Qualified individual", a trained professional or  
19 licensed clinician who is not an employee of the children's  
20 division or of a foster care case management contractor, or  
21 subcontractor thereof, of the children's division; and who  
22 is not connected to, or affiliated with, any placement  
23 setting in which children are placed by the state. The  
24 department of social services shall enter into contracts  
25 with appropriate individuals or entities to serve as a  
26 qualified individual. The children's division shall  
27 establish the qualifications of qualified individuals in  
28 rule;

29 (3) "Residential setting", a congregate setting that  
30 provides twenty four-hour supervision to a child for the  
31 purposes of rehabilitative treatment related to emotional  
32 and psychiatric needs, learning difficulties, behavioral  
33 disorders, trauma histories, or developmental challenges  
34 that require a higher level of supervision and treatment  
35 than available in a foster home setting. This setting shall  
36 include:

37 (a) A qualified residential treatment program, as  
38 defined in rule;

- 39           (b) A psychiatric residential treatment facility, as  
40 defined in rule;
- 41           (c) A setting specializing in providing prenatal,  
42 postpartum, or parenting supports for youth;
- 43           (d) A supervised congregate setting in which a youth  
44 who is eighteen years of age or older can live independently;
- 45           (e) A setting providing high-quality residential care  
46 and supportive services to children and youth who have been  
47 found to be, or are at risk of becoming, sex trafficking  
48 victims; or
- 49           (f) A residential treatment agency licensed by the  
50 children's division.
- 51           3. If a child is placed in a residential setting, the  
52 children's division shall arrange for a qualified individual  
53 to complete an assessment of the child within thirty days of  
54 the start of each placement in a residential setting. The  
55 assessment shall be in writing and shall:
- 56           (1) Assess the strengths and needs of the child using  
57 an age-appropriate, trauma-informed, evidence-based, and  
58 validated tool approved by the children's division;
- 59           (2) Assess whether the needs of the child can be met  
60 through placement with family members or in a foster home;
- 61           (3) Explain why the child's placement in a residential  
62 setting will be the most effective and appropriate level of  
63 care in the least restrictive environment, if the needs of  
64 the child cannot be met with family members or in a foster  
65 home;
- 66           (4) Describe how that placement is consistent with the  
67 short-term and long-term goals for the child, as specified  
68 in the child's permanency plan; and
- 69           (5) Develop a list of child-specific short-term and  
70 long-term mental and behavioral health goals.

71           4. The children's division shall assemble a family  
72 support team for the child in accordance with the  
73 requirements of section 210.762. The qualified individual  
74 conducting the assessment shall work in conjunction with the  
75 family of, and family support team for, the child while  
76 conducting and making the assessment.

77           5. Notwithstanding any other provision of law to the  
78 contrary, the qualified individual shall have unlimited  
79 access to any and all records and information pertaining to  
80 the child that the qualified individual determines are  
81 necessary to complete the assessment, including, but not  
82 limited to, medical records, therapy records, psychological  
83 and psychiatric evaluations, educational records, and  
84 placement history, including progress reports from such  
85 placements.

86           6. (1) The qualified individual shall provide the  
87 written assessment to the children's division. The  
88 children's division shall provide a copy of the assessment  
89 to the parties to the juvenile proceeding, the members of  
90 the family support team, and the court. The division may  
91 redact any information from the report that may be  
92 confidential as a matter of law, or may be harmful to the  
93 best interests, safety, and welfare of the child. The copy  
94 of the report as redacted shall be admitted into evidence  
95 and considered by the court without further foundation,  
96 unless any party to the juvenile proceeding objects. The  
97 objection shall be in writing and shall specify the legal  
98 and factual basis for the objection. The burden of proof  
99 shall be on the party objecting to the admissibility of the  
100 report; except that the children's division shall have the  
101 burden to establish the legal and factual basis for any  
102 redactions. The court may hold a hearing, take evidence on

103 the objection, and independently determine whether any  
104 redactions are appropriate.

105 (2) The children's division shall provide information  
106 to the court as to the efforts the division made to meet the  
107 needs of the child in a less restrictive setting and the  
108 services provided to meet the needs of the child.

109 7. Within sixty days of the start of each placement in  
110 a residential setting, the court shall assess the  
111 appropriateness for the child to remain in a residential  
112 setting. In conducting that assessment, the court shall  
113 make specific written findings of fact and:

114 (1) Consider the assessment, determination, and  
115 documentation made by the qualified individual conducting  
116 the assessment;

117 (2) Determine whether the needs of the child can be  
118 met through placement in a foster home or, if not, whether  
119 placement of the child in a residential setting provides the  
120 most effective and appropriate level of care for the child  
121 in the least restrictive environment;

122 (3) Determine whether that placement is consistent  
123 with the short-term and long-term goals for the child, as  
124 specified in the permanency plan for the child; and

125 (4) Approve or disapprove the placement.

126 8. The court shall reassess the appropriateness for  
127 the child to remain in a residential setting at every  
128 hearing subsequent to placement in a residential setting and  
129 make written findings of fact as required in subsection 7 of  
130 this section, but not less than every six months, until the  
131 child is discharged to a less restrictive, nonresidential  
132 setting.

133 9. If any party to the case at any time opposes the  
134 child's placement in a residential setting, the opposing



135 party may request a hearing. After a hearing, the court  
136 shall make a finding as prescribed in subsection 7 of this  
137 section.

138 10. The children's division may promulgate rules,  
139 including emergency rules, to implement the provisions of  
140 this section and the federal Family First Prevention  
141 Services Act, or amendments thereto, and, pursuant to this  
142 section, shall define implementation plans and dates. Any  
143 rule or portion of a rule, as that term is defined in  
144 section 536.010, that is created under the authority  
145 delegated in this section shall become effective only if it  
146 complies with and is subject to all of the provisions of  
147 chapter 536 and, if applicable, section 536.028. This  
148 section and chapter 536 are nonseverable and if any of the  
149 powers vested with the general assembly pursuant to chapter  
150 536 to review, to delay the effective date, or to disapprove  
151 and annul a rule are subsequently held unconstitutional,  
152 then the grant of rulemaking authority and any rule proposed  
153 or adopted after August 28, 2022, shall be invalid and void.

210.762. 1. When a child is taken into custody by a  
2 juvenile officer, **physician**, or law enforcement official  
3 **[under]** pursuant to section 210.125 and comes under the  
4 **jurisdiction of the court pursuant to** subdivision (1) and  
5 **(2)** of subsection 1 of section 211.031 and **[initially]**  
6 placed with the division, the division may make a temporary  
7 placement and shall arrange for a family support team  
8 meeting prior to or within twenty-four hours following the  
9 protective custody hearing held under section 211.032. After  
10 a child is in the division's custody **[and a temporary**  
11 **placement has been made]**, the division shall arrange an  
12 additional family support team meeting prior to taking any  
13 action relating to the placement of such child; except that,

14 when the welfare of a child in the custody of the division  
15 requires an immediate or emergency change of placement, the  
16 division may make a temporary placement and shall schedule a  
17 family support team meeting within seventy-two hours. The  
18 requirement for a family support team meeting shall not  
19 apply when the parent has consented in writing to the  
20 termination of his or her parental rights in conjunction  
21 with a placement in a licensed child-placing agency under  
22 subsection 6 of section 453.010.

23 2. The parents, the legal counsel for the parents, the  
24 foster parents, the legal guardian or custodian of the  
25 child, the guardian ad litem for the child, and the  
26 volunteer advocate, and any designee of the parent that has  
27 written authorization shall be notified and invited to  
28 participate in all family support team meetings. The family  
29 support team meeting may include such other persons whose  
30 attendance at the meeting may assist the team in making  
31 appropriate decisions in the best interests of the child,  
32 **including biological family members and relatives, as**  
33 **appropriate, as well as professionals who are a resource to**  
34 **the family of the child, such as teachers, medical or mental**  
35 **health providers who have treated the child, or clergy. In**  
36 **the case of a child who is age fourteen or older, the family**  
37 **support team shall include the members selected by the**  
38 **child. The division may exclude an individual from a family**  
39 **support team meeting or make alternative arrangements for an**  
40 **individual to express his or her views if an individual**  
41 **becomes disruptive to the meeting.**

42 3. If the division finds that it is not in the best  
43 interest of a child to be placed with relatives, the  
44 division shall make specific findings in the division's  
45 report detailing the reasons why the best interests of the

46 child necessitate placement of the child with persons other  
47 than relatives.

48 [3. The division shall use the form created in  
49 subsection 2 of section 210.147 to be signed upon the  
50 conclusion of the meeting pursuant to subsection 1 of this  
51 section confirming that all involved parties are aware of  
52 the team's decision regarding the custody and placement of  
53 the child. Any dissenting views must be recorded and  
54 attested to on such form.]

55 **4. The division shall be responsible for developing a**  
56 **form to be signed at the conclusion of any team meeting held**  
57 **in relation to a child removed from the home and placed in**  
58 **the custody of the state that reflects the core commitments**  
59 **made by the children's division or the convenor of the team**  
60 **meeting and the parents of the child or any other party.**  
61 **The content of the form shall be consistent with service**  
62 **agreements or case plans required by statute, but not the**  
63 **specific address of the child; whether the child shall**  
64 **remain in current placement or be moved to a new placement;**  
65 **visitation schedule for the child's family; and any**  
66 **additional core commitments. Any dissenting views shall be**  
67 **recorded and attested to on such form. The parents and any**  
68 **other party shall be provided with a copy of the signed**  
69 **document.**

70 [4.] 5. The [case manager] **division** shall be  
71 responsible for including such form with the case records of  
72 the child.

211.081. 1. Whenever any person informs the juvenile  
2 officer in writing that a child appears to be within the  
3 purview of applicable provisions of section 211.031, the  
4 juvenile officer shall make or cause to be made a  
5 preliminary inquiry to determine the facts and to determine

6 whether or not the interests of the public or of the child  
7 require that further action be taken. On the basis of this  
8 inquiry, the juvenile officer may make such informal  
9 adjustment as is practicable without a petition or file a  
10 petition. Any other provision of this chapter to the  
11 contrary notwithstanding, the juvenile court shall not make  
12 any order for disposition of a child which would place or  
13 commit the child to any location outside the state of  
14 Missouri without first receiving the approval of the  
15 children's division.

16 2. Placement in any [institutional] **residential**  
17 setting, **as defined in section 210.715**, shall represent the  
18 least restrictive appropriate placement for the child and  
19 shall [be recommended based upon a psychological or  
20 psychiatric evaluation or both] **meet all requirements set**  
21 **forth in section 210.715**. Prior to entering any order for  
22 disposition of a child which would order residential  
23 treatment or other services inside the state of Missouri,  
24 the juvenile court shall enter findings which include the  
25 recommendation of the psychological or psychiatric  
26 evaluation or both; and certification from the division  
27 director or designee as to whether a provider or funds or  
28 both are available, including a projection of their future  
29 availability. If the children's division indicates that  
30 funding is not available, the division shall recommend and  
31 make available for placement by the court an alternative  
32 placement for the child. The division shall have the burden  
33 of demonstrating that they have exercised due diligence in  
34 utilizing all available services to carry out the  
35 recommendation of the evaluation team and serve the best  
36 interest of the child. The judge shall not order placement  
37 or an alternative placement with a specific provider but may

38 reasonably designate the scope and type of the services  
39 which shall be provided by the department to the child. **For**  
40 **purposes of this subsection, the word "child" shall have the**  
41 **same meaning as in section 210.715.**

42 3. Obligations of the state incurred under the  
43 provisions of section 211.181 shall not exceed, in any  
44 fiscal year, the amount appropriated for this purpose.

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